

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 18794 of 2004

Between:

- 1 V.K.Narasimhulu, S/o V.K.Lakshmana,
R/o H.No.3/87, 3rd Ward Yemigannur, Kurnool District
- 2 B.Ganganna, S/o B.Buddanna,
R/o H.No.141, Yemmiganur, Kurnool District

..... PETITIONERS

AND

- 1 The Revenue Divisional Officer, Adoni, Kurnool District
- 2 The Mandal Revenue Officer, Yemmiganur, Kurnool District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in not permitting the petitioners to lift the stocks without any valid reasons as illegal, malafide, arbitrary and against the principles of natural justice and consequently direct the respondents to permit the petitioners to lift the stocks for their respective F.P.Shops

Counsel for the Petitioner: MR.K.V.CHALAPATHI RAO

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court at the stage of admission made the following:

ORDER:

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Heard the learned counsel for the petitioners and the learned Government Pleader appearing for the respondents.

This writ petition is filed seeking a declaration that the alleged action of the respondents in not permitting the petitioners to lift the stocks without there being any justifiable reason is arbitrary and illegal.

The petitioners claim to be the authorised dealers of the Fair Price Shops of Ward Nos. 3 and 14, respectively, of Yemigannur village, Kurnool District and it is claimed that both of them are holding valid authorisations.

This Court, while directing notice before admission, by an order dated 13-10-2004, directed the respondents to permit the petitioners to lift the stocks, if the petitioners are holding valid authorisations and the same are subsisting as on that date.

Today, when the matter is taken up for consideration, the learned Government Pleader under instructions states that the petitioners were allotted stocks up to the month of September, 2004 as usual. However, they were not allotted stocks for the month of October,

2004, since complaints have been received from the card holders as to the irregularities committed by the petitioner in distribution of the commodities and on the basis of the same reports have already been submitted to the Revenue Divisional Officer, Adoni, for taking necessary action against the petitioners. It is further stated that since further orders are yet to be received from the Revenue Divisional Officer, the stocks were not released for the month of October, 2004.

Even assuming that certain complaints were received from the card holders and that the respondents are contemplating to conduct enquiry with regard to the alleged irregularities in distribution of the essential commodities, the question is whether the authorities can refuse to supply the essential commodities to the petitioners without either suspending or cancelling the authorisation.

This issue has been considered by a Full Bench of this Court in *OLETI TIRUPATHAMMA v. DISTRICT SUPPLY OFFICER (CITY), VISAKHAPATNAM AND OTHERS* and while concluding that in such circumstances the proceedings under Article 226 of the Constitution of India are maintainable, it has been held as under:

“The High Court while exercising its jurisdiction under Article 226 of the Constitution of India, acts sentinel qui vive and thus it has to protect the citizen from arbitrary and capricious action of the executive. If the licensing authority themselves upon application of mind come to the conclusion that the irregularities committed by the fair price shop dealer would warrant suspension of his licence, it may do so. But, in our considered opinion, the authority without taking recourse to the said action, cannot, refuse to supply the essential commodities.”

Admittedly, in the case on hand the authorisations of the petitioners have not yet been suspended or cancelled. In the circumstances, following the ratio laid down by the Full Bench in the above decision, I deem it appropriate to dispose of the Writ Petition with a direction to the respondents to supply the essential commodities to the petitioners in case the petitioners are holding valid

authorisations and the same are subsisting as on today. However, it is made clear that this order shall not preclude the respondents to initiate appropriate proceedings against the petitioners if the circumstances so warrant, following due process of law.

The writ petition is accordingly disposed of. No costs.

(G. ROHINI, J)

Date: 10-11-2004

ghn

To

1 The Revenue Divisional Officer, Adoni, Kurnool District

2 The Mandal Revenue Officer, Yemmiganur, Kurnool District

3 Two C.Cs to the G.P. for Civil Supplies, High Court Buildings,
Hyderabad (OUT)

4 Two C.D copies